

Application No.: 10/587,778
Amendment Dated: February 8, 2011
Reply to Advisory Action of: January 14, 2011

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Remarks/Arguments:

Claims 39-59 are pending and rejected in the application. Claims 33, 42 and 51 have been amended. No new matter has been added.

On page 2, the Advisory Action maintains the rejections to claims 33-59 under a combination of O'Toole and O'Neill. The Advisory Action states that O'Neill's access node 605 is bypassed or passed over in the tunnel communication. Applicants respectfully disagree. Specifically, paragraph 70 of O'Neill states that end nodes are passed "through." Thus, the tunnel communication still goes through access node 605 as shown by the communication lines of tunnels 1010, 1011 and 1025 (i.e., the communication lines in Fig. 10 do not bypass access node). Although Applicants disagree with the Examiner's rejection, amendments were made to the independent claims for clarification purposes.

On page 3 of the Official Action dated October 20, 2010, claims 33, 35-36, 38-42, 44-45, 47-51 and 53-55 are rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Toole (US 7,673,048) in view of O'Neill (US 2003/0224758). It is respectfully submitted, however, that the claims are patentable over the art of record for at least the reasons set forth below.

Applicants' invention, as recited by claim 42, includes features which are neither disclosed nor suggested by the art of record, namely:

... wherein the sustain data received by the data processing apparatus indicates a connection time for the tunnel communication , and is used by the data processing apparatus to perform tunnel communication with the other data processing apparatus exclusive of the access apparatus.

Claim 42 relates to sustained data which indicates a connection time for tunnel communication. The sustained data is utilized by the data processing apparatus to perform tunnel communication with the other data processing apparatus exclusive of an access apparatus. For example, two client devices (two data processing apparatuses) are both able to perform tunnel communication based

on sustained data. Once the client devices have the sustained data, they do not rely on the access apparatus. Support for this feature can be at least found on page 9 and 25 of Applicants' specification and furthermore, shown in Fig. 21. No new matter has been added.

On pages 3-5 of the Official Action, the Examiner points to Fig. 4 of O'Toole for suggesting the claimed access apparatus and the claimed data processing apparatuses. Specifically, the Examiner is interpreting O'Toole's client device 30 and destination device 36-M as the claimed processing apparatuses. The Examiner is also interpreting O'Toole's gateway 34-1 as the claimed access apparatus. However, the combination of O'Toole and O'Neill is deficient for at least the following reasons:

1) O'Toole's destination device 36-M is not capable of performing tunnel communication. O'Toole suggests that one of the data processing apparatuses is performing tunnel communication with the access apparatus (30 and 36-M are not performing tunnel communication with each other).

2) Tunnel manager 90 manages tunnel communication between client device 30 and gateway 34-1. Thus, if O'Toole's system was transmitting sustained data, tunnel manager 90 (not gateway 34-1) would be managing the sustained data. Thus, it is not possible for O'Toole's gateway 34-1 (i.e., access device) to transmit the sustained data to either client device 30 or destination device 36-M (i.e., client device 30 already received the sustained data from tunnel manager 90, whereas destination device 36-M cannot utilized sustained data because it is not capable of performing tunnel communication to begin with).

3) O'Neill's access node 65 acts as a "pass through" node. Access node 605 is not bypassed or passed over as suggested by the Examiner. The communication passing through access node 605 can be at least shown by tunnel communication lines 1010, 1011 and 1025 which pass through (not around) access node 605 and 605'.

4) If access node 605 as taught by O'Neill replaces gateway 34-1 (i.e., access device) as taught by Fig. 4 of O'Toole, then O'Toole's system would no longer be operable. O'Toole's system would no longer be operable because access node 605 as

taught by O'Neill only has the capabilities of relaying packets between the destination devices (it cannot perform tunnel operations). Thus, since neither the access node 605 nor the destination device 36-M have tunnel communication capabilities, then tunnel communication cannot be implemented (i.e., client device 30 will be the only device that is able to perform tunnel communication).

Applicants' claim 42 is different than the art of record, because two data processing apparatuses perform tunnel communication with each other based on sustained data exclusive of an access apparatus ("*... wherein the sustain data received by the data processing apparatus indicates a connection time for the tunnel communication , and is used by the data processing apparatus to perform tunnel communication with the other data processing apparatus exclusive of the access apparatus*").

As shown in Applicants' Fig. 21, two data processing apparatuses 1 and 2 are able to perform tunnel communication with each other. Specifically, data processing apparatus 1 is able to obtain sustained data from access apparatus 7. Once data processing apparatus 1 obtains the sustained data, tunnel communication can be sustained between data processing apparatus 1 and data processing apparatus 2 without relying on access apparatus 7 (i.e., access apparatus 7 is not needed because sustained data has already been received by first data processing apparatus 1). Accordingly, for the reasons set forth above, claim 42 is patentable over the art of record.

Independent claims 33 and 51 include similar features to claim 42. Thus, independent claims 33 and 51 are also patentable over the art of record for at least the reasons set forth above.

Dependent claims 35-36, 38-41, 44-45, 47-50 and 53-55 include all of the features of the claims from which they depend. Thus, these claims are also patentable over the art of record for at least the reasons set forth above.

On page 9, the Official Action rejects claims 34, 37, 43, 46, 52 and 56-59 under 35 U.S.C. § 103(a) as being unpatentable over O'Toole, in view of O'Neill, and further in view of King (US 2002/0194292). King is relied upon for using a data

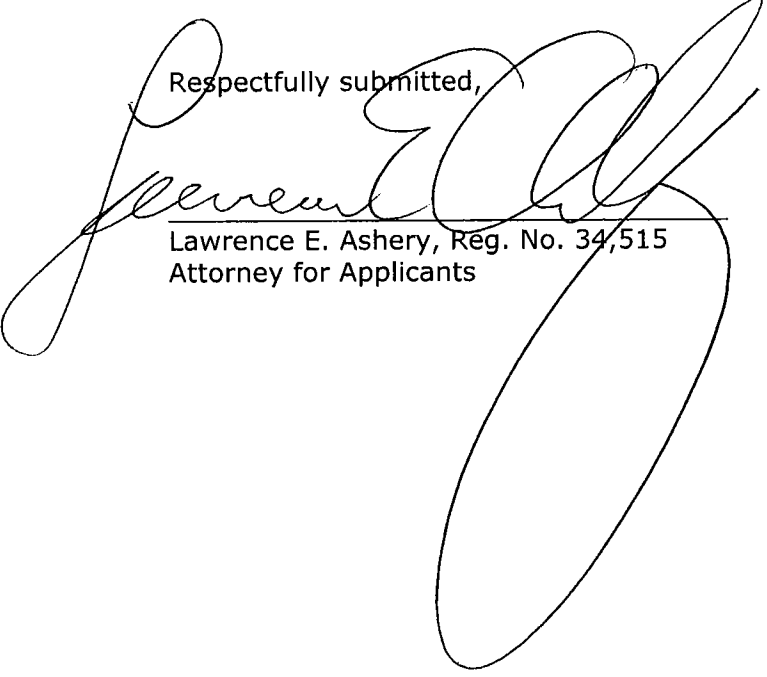
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processing apparatus to judge the cancellation of tunnel communication. King, however, does not make up for the deficiencies of O'Toole and O'Neill. Thus, these claims are also patentable over the art of record for at least the reasons set forth above.

In view of the amendments and arguments set forth above, the above-identified application is in condition for allowance which action is respectfully requested.

Respectfully submitted,



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